

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 ARAE-00 SS-15 SSO-00 PA-01 PRS-01 L-02

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O 191930Z DEC 74

FM AMEMBASSY LIMA

TO SECSTATE WASHDC IMMEDIATE 3238

C O N F I D E N T I A L LIMA 10725

EO 11652: GDS

TAGS: PFOR, EFIN, BDIS, PE

SUBJECT: GREENE SETTLEMENT - DISTRIBUTION OF PROCEEDS

REF: LIMA 10691; LIMA 10713

1. AS REPORTED LIMA 10713, LIMA GOVERNMENT-CONTROLLED PRESS HAD GIVEN HEAVY PLAY TO MINISTRY FOREIGN RELATIONS PRESS RELEASE CONCERNING REJECTION OF OUR AIDE-MEMOIRE AND CONTAINING TEXT OF MINISTRY NOTE WHICH CONCLUDES THAT U.S. ACTION "IMPLIES A DISTORTION OF THE SPIRIT AND LETTER OF THE (GREENE) AGREEMENT" AND REQUESTS THAT LIST OF RECIPIENTS NOT INCLUDE ESSO. EMBASSY IS RESPONDING TO INQUIRIES FROM THE PRESS, WHICH SO FAR HAVE BEEN FEW, THAT QUESTIONS SHOULD BE REFERRED TO DEPARTMENT.

2. ACTION TAKEN BY MINISTRY TO PUBLICIZE SETTLEMENT WAS OBVIOUSLY THE RESULT OF A CONSCIOUS DECISION ON PART GOP THAT IT IS IN ITS BEST INTEREST TO SEIZE INITIATIVE RATHER THAN TO WAIT UNTIL DISTRIBUTION OF PROCEEDS GRADUALLY BECAME MATTER OF PUBLIC KNOWLEDGE. MINISTRY AND GOP WERE WELL AWARE OF MANNER IN WHICH USG PROPOSED TO DEAL WITH MATTER, AND IN FACT EMBASSY'S AIDE-MEMOIRE EXPLICITLY STATED THAT, "THE USG PLANS NO STATEMENT UPON DISTRIBUTION, BUT WHEN IT RECEIVES QUESTIONS CONCERNING THE FACT OF DISTRIBUTION AND THE NAMES OF CLAIMANTS, IT WILL ISSUE A BRIEF

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STATEMENT ACCOMPANIED BY A LIST OF THE CLAIMANTS AND THE

AMOUNTS RECEIVED BY EACH."

3. IN RESPONSE TO FOREIGN MINISTRY'S NOTE, EMBASSY HAS DRAFTED REPLY, TEXT OF WHICH FOLLOWS BELOW. DEPARTMENT'S PROMPT CONSIDERATION OF THIS DRAFT TEXT AS WELL AS COMMENTS ON MANNER AND TIMING OF DELIVERY WILL BE APPRECIATED.

4. TEXT OF PROPOSED NOTE:

A. THE EMBASSY OF THE UNITED STATES OF AMERICA PRESENTS ITS COMPLIMENTS TO THE MINISTRY OF FOREIGN RELATIONS OF THE GOVERNMENT OF PERU AND HAS THE HONOR TO REFER TO THE MINISTRY'S NOTE NO. 6-Y16 OF DECEMBER 18, 1974, CONCERNING THE AGREEMENT OF FEBRUARY 19, 1974 BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF PERU.

B. THE EMBASSY NOTES THE MINISTRY'S REFERENCE TO THE PREAMBLE OF THE AGREEMENT, WHICH STATES THAT, "IT HAS BEEN CLEARLY ESTABLISHED BY THE GOVERNMENT OF PERU THAT THE IPC CASE WILL NOT FOR ANY REASON BE A SUBJECT OF SAID CONVERSATIONS INASMUCH AS THIS IS A MATTER WHICH HAS BEEN DEFINITELY RESOLVED. THE GOVERNMENT OF THE UNITED STATES RECOGNIZES THAT THIS IS THE POSITION OF THE REVOLUTIONARY GOVERNMENT."

C. THE EMBASSY ALSO NOTES THE MINISTRY'S REFERENCE TO ANNEX A OF THE AGREEMENT, WHICH READS AS FOLLOWS: "WITHOUT MODIFYING THE PROVISIONS OF THIS AGREEMENT, THE GOVERNMENT OF PERU EXPRESSLY STATES THAT THE MATTERS COVERED BY THE AGREEMENT REFER TO THE PROBLEMS AND CLAIMS ARISING FROM THE ACTIVITIES CARRIED ON IN PERU BY THE FOLLOWING COMPANIES." THIS STATEMENT IS FOLLOWED BY A LIST OF FIFTEEN COMPANIES. THE MINISTRY ALSO REFERS TO ANNEX B OF THE AGREEMENT, WHICH STATES THAT, "THE GOVERNMENT OF THE UNITED STATES RECOGNIZES THAT THE POSITION OF THE GOVERNMENT OF PERU IS STATED IN ANNEX A AND NOTES THAT THIS POSITION IS STATED WITHOUT MODIFYING, BY INTERPRETATION OR OTHERWISE, THE PROVISIONS OF THE AGREEMENT."

D. FINALLY, THE MINISTRY REFERS TO ARTICLE III OF THE
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AGREEMENT, WHICH PROVIDES THAT, "THE DISTRIBUTION OF THE SUM REFERRED TO IN ARTICLE II HEREOF FALLS WITHIN THE EXCLUSIVE COMPETENCE OF THE GOVERNMENT OF THE UNITED STATES, WITHOUT ANY RESPONSIBILITY ARISING THEREFROM ON THE PART OF THE GOVERNMENT OF PERU FROM THE EXERCISE OF THIS AUTHORITY BY THE GOVERNMENT OF THE UNITED STATES. IN ACCORDANCE WITH INTERNAL PROCEDURES FALLING WITHIN ITS EXCLUSIVE COMPETENCE, THE GOVERNMENT OF THE UNITED STATES

WILL DEPOSIT SAID SUM IN A TRUST ACCOUNT IN THE UNITED STATES TREASURY UNTIL DISTRIBUTION WITH INTEREST, PURSUANT TO THE DETERMINATION BY THE SECRETARY OF STATE OF THE UNITED STATES OF AMERICA IN ACCORDANCE WITH THE LAWS OF THE UNITED STATES."

E. THE EMBASSY NOTES THE POSITION OF THE MINISTRY TO THE EFFECT THAT, NOTWITHSTANDING THE PROVISIONS OF ARTICLE III AND ANNEX B OF THE AGREEMENT, THE PAYMENT BY THE DEPARTMENT OF STATE OF PART OF THE PROCEEDS OF THE AGREEMENT TO ESSO STANDARD (INTER AMERICAN) INC., WHICH IS NOT ONE OF THE FIFTEEN COMPANIES LISTED UNDER ANNEX A REFERRED TO ABOVE, "IMPLIES A DISTORTION OF THE SPIRIT AND LETTER OF THE AGREEMENT."

F. THE EMBASSY HAS INFORMED THE DEPARTMENT OF STATE OF THE FOREGOING VIEWS OF THE MINISTRY OF FOREIGN RELATIONS. THE DEPARTMENT OF STATE HAS NOW INSTRUCTED THE EMBASSY TO INFORM THE MINISTRY THAT IT IS THE VIEW OF THE GOVERNMENT OF THE UNITED STATES THAT THE ACTIONS TAKEN HAVE BEEN CONSISTENT WITH THE LETTER AND SPIRIT OF THE AGREEMENT. AS ARTICLE III STATES, THE DISTRIBUTION OF PROCEEDS IS THE SOLE RESPONSIBILITY OF THE UNITED STATES GOVERNMENT, AND THE ELIGIBLE CLAIMANTS WERE DETERMINED BY THE DEPARTMENT OF STATE ACCORDINGLY. THE DISTRIBUTION MADE CONSEQUENTLY FALLS WELL WITHIN THE TERMS OF THE AGREEMENT, AND THE GOVERNMENT OF THE UNITED STATES THEREFORE REGRETS THAT IT IS UNABLE TO ACCEDE TO THE REQUEST OF THE GOVERNMENT OF PERU THAT IT AMEND THE LIST OF RECIPIENTS.

G. THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONTINUES TO SEEK EVEN MORE CORDIAL RELATIONS WITH THE GOVERNMENT OF PERU, IN THE SPIRIT WHICH ANIMATED BOTH GOVERNMENTS
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TO NEGOTIATE AND CONCLUDE THE AGREEMENT OF FEBRUARY 19, 1974.

H. THE EMBASSY OF THE UNITED STATES OF AMERICA AVAILS ITSELF OF THIS OPPORTUNITY TO REITERATE TO THE MINISTRY OF FOREIGN RELATIONS OF THE GOVERNMENT OF PERU THE RENEWED ASSURANCES OF ITS HIGHEST CONSIDERATION.
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